AO 245B (Mod. D/NJ 12/06) Sheet 1 - Judgment in a Criminal Case

UNITED STATES DISTRICT COURT
District of New Jersey

UNITED STATES OF AMERICA

v. Case Number 2:13cr552-01 (ES)

ZHIFEI LI

Defendant.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, ZHIFEI LI, was represented by Gary Cutler & Shengjin Yang.

On motion of the United States the court has dismissed count(s) 1.

The defendant pled guilty to count(s) 2 of the INDICTMENT on 12/19/2014. Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section	Nature of Offense	Date of Offense	Count Number(s)
18:554 & 2	Smuggling Wildlife	1/30/13 & 1/31/13	2

As pronounced on 5/27/2014, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of $100.00, for count(s) 2, which shall be due immediately. Said special assessment shall be made payable to the Clerk, U.S. District Court.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this the 9th day of June, 2014.

ESTHER SALAS
United States District Judge

07105

Defendant: ZHIFEI LI
Case Number: 2:13cr552-01 (ES)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 70 Months. The term of imprisonment shall run concurrently to the term imposed in 2:13cr113-01 (ES).

The Court makes the following recommendations to the Bureau of Prisons: Otisville or an institution in the New York area.

The defendant shall remain in custody pending service of sentence.

RETURN

I have executed this Judgment as follows:

____

____

____

____

Defendant delivered on ____________________ To ______________________________
At ____, with a certified copy of this Judgment.

____
United States Marshal

By ____________________
Deputy Marshal

Defendant: ZHIFEI LI
Case Number: 2:13cr552-01 (ES)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 2 years. The term of supervised release shall run concurrently to the term imposed in 2:13cr113-01 (ES).

Within 72 hours of release from custody of the Bureau of Prisons, the defendant shall report in person to the Probation Office in the district to which the defendant is released.

While on supervised release, the defendant shall comply with the standard conditions that have been adopted by this court as set forth below.

Based on information presented, the defendant is excused from the mandatory drug testing provision, however, may be requested to submit to drug testing during the period of supervision if the probation officer determines a risk of substance abuse.

If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remains unpaid at the commencement of the term of supervised release and shall comply with the following special conditions:

COOPERATION WITH IMMIGRATION AND CUSTOMS ENFORCEMENT

You shall cooperate with Immigration and Customs Enforcement to resolve any problems with your status in the United States. You shall provide truthful information and abide by the rules and regulations of Immigration and Customs Enforcement. If deported, you shall not re-enter the United States without the written permission of the Attorney General. If you re-enter the United States, you shall report in person to the nearest U.S. Probation Office within 48 hours.

Defendant: ZHIFEI LI
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STANDARD CONDITIONS OF SUPERVISED RELEASE

While the defendant is on supervised release pursuant to this Judgment:

1) The defendant shall not commit another federal, state, or local crime during the term of supervision.

2) The defendant shall not illegally possess a controlled substance.

3) If convicted of a felony offense, the defendant shall not possess a firearm or destructive device.

4) The defendant shall not leave the judicial district without the permission of the court or probation officer.

5) The defendant shall report to the probation officer in a manner and frequency directed by the Court or probation officer.

6) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.

7) The defendant shall support his or her dependents and meet other family responsibilities.

8) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.

9) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.

10) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.

11) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.

12) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.

13) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.

14) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

15) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.

16) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

(17) You shall cooperate in the collection of DNA as directed by the Probation Officer.

(This standard condition would apply when the current offense or a prior federal offense is either a felony, any offense under Chapter 109A of Title 18 (i.e., §§ 2241-2248, any crime of violence [as defined in 18 U.S.C. § 16], any attempt or conspiracy to commit the above, an offense under the Uniform Code of Military Justice for which a sentence of confinement of more than one year may be imposed, or any other offense under the Uniform Code that is comparable to a qualifying federal offense);

(18) Upon request, you shall provide the U.S. Probation Office with full disclosure of your financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, you are prohibited from maintaining and/or opening any additional individual and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge

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and approval of the U.S. Probation Office. You shall cooperate with the Probation Officer in the investigation of your financial dealings and shall provide truthful monthly statements of your income. You shall cooperate in the signing of any necessary authorization to release information forms permitting the U.S. Probation Office access to your financial information and records;

(19) As directed by the U.S. Probation Office, you shall participate in and complete any educational, vocational, cognitive or any other enrichment program offered by the U.S. Probation Office or any outside agency or establishment while under supervision;

(20) You shall not operate any motor vehicle without a valid driver's license issued by the State of New Jersey, or in the state in which you are supervised. You shall comply with all motor vehicle laws and ordinances and must report all motor vehicle infractions (including any court appearances) within 72 hours to the U.S. Probation Office;

For Official Use Only - - - U.S. Probation Office

Upon a finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision or (2) extend the term of supervision and/or modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions, and have been provided a copy of them.

You shall carry out all rules, in addition to the above, as prescribed by the Chief U.S. Probation Officer, or any of his associate Probation Officers.

(Signed) ______________________________
Defendant Date

____
U.S. Probation Officer/Designated Witness Date

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RESTITUTION AND FORFEITURE

FORFEITURE

The defendant is ordered to forfeit the following property to the United States: See attached order of forfeiture.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA v. ZHIFEI LI, Defendant	:	Criminal Nos. 13-113(ES) 13-552(ES)

DECLARATION OF DEFENDANT ZHIFEI LI IN SUPPORT OF DEPORTATION

ZHIFEI LI hereby declares and states as follows:

1. I acknowledge that I am not a citizen of the United States and that I have no legal status to remain in the United States. I further acknowledge that I am a native and citizen of the People's Republic of China.

2. I acknowledge that I have been convicted of crimes charged under the following statutes: 18 U.S.C. § 371, 18 U.S.C. § 554, 18 U.S.C. § 2, 18 U.S.C. §§ 3372(a)(1) and 3373(d)(1)(A), 16 U.S.C. §§ 3372(d) and 3372 (d)(3)(A)(i).

3. I acknowledge that my rights with respect to deportability from the United States have been fully explained to me by my attorneys Gary L. Cutler and Brian Shengjian Yang, and that I am satisfied with their services.

4. I understand that I have a right to a hearing regarding deportability and I knowingly, intelligently and voluntarily waive m right to a hearing before this Court, before an Immigration Judge, and before any other authority under the Immigration and Nationality Act, on the question of my deportability from the United States and I, hereby concede my deportability from the United States.

5. In this regard, I understand my right to examine any and all evidence against me prior to the hearing, to present evidence on my own behalf, and to cross-examine witnesses presented by the government, and I, hereby, knowingly, intelligently and voluntarily waive these rights.

6. In addition to conceding that an order fro my deportation from the United States is warranted in my case, I knowingly, intelligently and voluntarily waive any and all rights I may have to appeal an Order of Deportation in my case to reopen my case, or to challenge in any manner the filing of an Order of Deportation in my case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: May 27 2014

Zhifei Li

2011R00111/KPO/BAW

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, Plaintiff, v. ZHIFEI LI, Defendant.	Criminal No. 13-113 (ES) PRELIMINARY ORDER OF FORFEITURE (FINAL AS TO THE DEFENDANT)

WHEREAS, on or about December 19, 2013, defendant Zhifei Li pleaded guilty pursuant to a plea agreement with the United States to Superseding Information Crim. No. 13-113 (ES) (the "New Jersey Superseding Information") charging him, in ten counts, with conspiring to smuggle from the United States, traffic in, and make and submit false shipping records for, raw rhinoceros horns, contrary to 18 U.S.C. § 554, 16 U.S.C. §§ 3372(a)(1) and 3373(d)(1)(A), and 16 U.S.C. §§ 3372(d) and 3373(d)(3)(A)(i), in violation of 18 U.S.C. § 371 (Count 1); smuggling, or attempting to smuggle, from the United States the raw horns of endangered black rhinoceros, rhinoceros horn carvings or elephant ivory carvings, in violation of 18 U.S.C. § 554 (Counts 2, 4, 5, 6, 8 and 9); trafficking in the raw horns of endangered black rhinoceros, in violation of 16 U.S.C. §§ 3372(a)(1) and 3373(d)(1)(A) (Count 3); and making and submitting, and causing to be made and submitted, false shipping records for elephant ivory carvings and rhinoceros horn which were, or were intended to be, exported from the United States, in violation of 16 U.S.C. §§ 3372(d) and 3373(d)(3)(A)(i) (Counts 7 and 10);

WHEREAS, as part of his plea agreement, the defendant admitted the forfeiture allegations of the New Jersey Superseding Information and agreed to forfeit to the United States: (i) pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, a sum of money equal to $1,750,000 as to Counts 1, 2, 4, 5, 6, 8 and 9 of the New Jersey Superseding Information, representing the proceeds of the smuggling and smuggling conspiracy offenses in violation of 18 U.S.C. § 554 charged in said counts (the "Customs Forfeiture Money Judgment"), and (ii) pursuant to 16 U.S.C. § 3374 and 28 U.S.C. § 2461, a sum of money equal to $1,750,000 as to Counts 1 and 3 of the New Jersey Superseding Information, representing the wildlife the defendant imported, exported, transported, sold, received, acquired or purchased in violation of the Lacey Act (the "Lacey Act Forfeiture Money Judgment"), for a total money judgment of $3,500,000 (collectively, the "Forfeiture Money Judgments");

WHEREAS, in the plea agreement, the defendant further consented to the forfeiture of all of his right, title and interest in the following property as substitute assets, pursuant to 21 U.S.C. § 853(p) and acknowledging that the prerequisites for the forfeiture of substitute assets have been satisfied, with the funds to be applied to the Lacey Act Forfeiture Money Judgment in partial satisfaction thereof: (i) $59,710 seized by U.S. Fish and Wildlife Service during the course of the investigation; and (ii) $20,000 to be paid by the defendant prior to sentencing to the Lacey Act Reward Account;

WHEREAS, in the plea agreement, the defendant further consented to the forfeiture of all of his right, title and interest in the following property as substitute assets, pursuant to 21 U.S.C. § 853(p) and acknowledging that the prerequisites for the forfeiture of substitute assets have been satisfied, with the funds to be applied to the Customs Forfeiture Money Judgment in partial satisfaction thereof:

One Jade Carving of Mountain Scene;
One Small Jade Carving of Bird;
One Lacquer Table Screen with Wood Stand;
Three Green Jadeite Bangles;
One Malachite Carving of Turtle;
One Malachite Carving of Camel
One Porcelain Brush Pot;
13 Polychrome Bone Carvings of Vegetables;
772 Chinese Yuan (772); and
Nine Hard Rock Casino Chips ($25 denomination),

(hereinafter, the "Customs Substitute Assets");

WHEREAS, in the plea agreement, defendant Zhifei Li:

(1) Consented to the imposition of the Forfeiture Money Judgments and agreed that this Order is final as to the Forfeiture Money Judgments at the time of its entry by the Court, pursuant to Rule 32.2(b)(4)(A) of the Federal Rules of Criminal Procedure;

(2) Waived the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of forfeiture in the charging instrument, announcement of the forfeiture in the defendant's presence at sentencing, and incorporation of the forfeiture in the Judgment of Conviction;

(3) Acknowledged that he understands that forfeiture of property will be part of the sentence imposed upon him in this case and waives any failure by the Court to advise him of this, pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J), during the plea hearing; and

(4) Waived any and all claims that the forfeiture constitutes an excessive fine and agrees that this forfeiture does not violate the Eighth Amendment all constitutional and statutory challenges of any kind to any forfeiture carried out pursuant to this Consent Judgment;

WHEREAS, pursuant to the plea agreement, Rule 32.2(b)(2)(A) of the Federal Rules of Criminal Procedure, and based on the foregoing, all right, title, and interest of the defendant in the Substitute Assets is hereby forfeited to the United States for disposition according to law, subject to the provisions of 21 U.S.C. § 853(n) and Fed. R. Crim. P. 32.2(b)(6), which require publication and notice to third parties known to have alleged an interest in forfeited property and the disposition of any petitions filed under 21 U.S.C.

§ 853(n) before the United States may have clear title to such property;

WHEREAS, good and sufficient cause having been shown, it is hereby ORDERED, ADJUDGED, AND DECREED THAT:

1. As a result of the defendant's conviction of the offenses charged Counts 1, 2, 4, 5, 6, 8 and 9 of the New Jersey Superseding Information, a money judgment in the amount of $1,750,000 (the "Customs Forfeiture Money Judgment") shall be entered against the defendant; and as a result of the defendant's conviction of offenses charged in Counts 1 and 3 of the New Jersey Superseding Information, a money judgment in the amount of $1,750,000 shall be entered against the defendant (the "Lacey Act Forfeiture Money Judgment"), for a total money judgment of $3,500,000 (the "Forfeiture Money Judgments").

2. The defendant having given his consent pursuant to Rule 32.2(b)(4)(A) of the Federal Rules of Criminal Procedure, upon entry of this Preliminary Order of Forfeiture (Final as to the Defendant), this Order is final at the time of entry as to the Forfeiture Money Judgments, shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. Payment of the Customs Forfeiture Money Judgment shall be made by certified or bank check, payable to U.S. Customs and Border Protection, with the criminal docket number noted on a cover letter

and the face of the check. Payments on the Customs Forfeiture Money Judgment shall be delivered to the Asset Forfeiture and Money Laundering Unit, United States Attorney's Office, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102.

4. Payment of the Lacey Act Forfeiture Money Judgment shall be made by certified or bank check, payable to the Lacey Act Reward Account, pursuant to 16 U.S.C. § 3775(d), with the criminal docket number noted on a cover letter and the face of the check, and delivered to the following address:

United States Fish and Wildlife Service
Division of Financial Management / Denver Operations
Cost Accounting
P.O. Box 272065
Denver, CO 80227
FUND - 122X
Organizational Code - 99000

Copies of the cover letter(s) and check(s) accompanying payments on the Lacey Act Forfeiture Money Judgment shall be delivered to the Asset Forfeiture and Money Laundering Unit, United States Attorney's Office, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102.

5. The defendant shall first satisfy the Lacey Act Forfeiture Money Judgment and then shall satisfy the Customs Forfeiture Money Judgment, except with regard to the forfeiture of the proceeds from the sale of the ten items listed in ¶ 8 below, which shall be applied to the Customs Forfeiture Money Judgment.

6. All of the defendant's right, title, and interest in $59,710 seized by the U.S. Fish and Wildlife Service during the course of the investigation is hereby forfeited to the United States of America as substitute assets, pursuant to 21 U.S.C. § 853(p), with the funds to be applied to the Lacey Act Forfeiture Money Judgment in partial satisfaction thereof.

7. On or before sentencing, the defendant shall pay $20,000 to the Lacey Act Reward Account, with the funds to be applied to the Lacey Act Forfeiture Money Judgment in partial satisfaction thereof.

8. All of the defendant's right, title and interest in the following property is hereby forfeited to the United States of America as substitute assets, pursuant to 21 U.S.C. § 853(p), with the proceeds from the sale thereof to be applied to the Customs Forfeiture Money Judgment in partial satisfaction thereof:

a. One Jade Carving of Mountain Scene;
b. One Small Jade Carving of Bird;
c. One Lacquer Table Screen with Wood Stand;
d. Three Green Jadeite Bangles;
e. One Malachite Carving of Turtle;
f. One Malachite Carving of Camel;
g. One Porcelain Brush Pot;
h. 13 Polychrome Bone Carvings of Vegetables;
i. 772 Chinese Yuan (772); and
j. Nine Hard Rock Casino Chips ($25 denomination),

(the "Customs Substitute Assets").

9. Pursuant to 21 U.S.C. § 853(n)(1) and Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, the United States shall publish notice of this Order for at least 30 consecutive days on the

government internet site www.forfeiture.gov. The United States shall also send notice of this Order to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture of the Substitute Assets in the ancillary proceeding.

10. The notice of forfeiture must describe the forfeited property with reasonable particularity, state the times by which a petition contesting the forfeiture must be filed, and state the name and contact information for the government attorney to be served with the petition. The notice shall also state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Substitute Assets, (ii) shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Substitute Assets, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Substitute Assets, any additional facts supporting the petitioner's claim, and the relief sought. *See* Fed R. Crim. P. 23.2(b)(6); 21 U.S.C. § 853(n)(2), (3).

11. Any person, other than the defendant, claiming interest in the Substitute Assets must file a petition within 60 days from the first day of publication of notice on the government internet site, or no later than 35 days from the mailing of direct notice, whichever is earlier, pursuant to Rule 32.2(b)(6) of the Federal

Rules of Criminal Procedure and Rule G(4) and G(5) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

12. Upon adjudication of all third-party interests, this Court will enter a final order of forfeiture pursuant to 21 U.S.C. § 853(n)(7) and Rule 32.2(c)(2), in which all interests will be addressed.

13. Pursuant to Rule 32.2(c) of the Federal Rules of Criminal Procedure, upon entry of this Preliminary Order of Forfeiture the U.S. Attorney's Office is authorized to conduct any discovery needed to identify, locate, or dispose of property subject to forfeiture, including depositions, interrogatories, requests for production of documents, and subpoenas.

14. This Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure.

ORDERED this 19th day of December, 2013.

HONORABLE ESTHER SALAS
United States District Judge